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Gary S. Foster

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EXAMINER

FELTEN, DANIEL S

ART UNIT

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/931,123
Filing Date: August 16, 2001
Appellant(s): FOSTER ET AL.

Todd M. Oberdick
(Reg. No. 44,268)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 5/26/2006 appealing from the Office action mailed
4/20/2006

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

Appellant previously filed an appeal to the Board of Patent Appeals and Interferences in the present case on July 30, 2004. In response thereto, the Examiner reopened prosecution and issued new rejections.

Subsequent thereto, the appellant filed a second appeal to the board of Patent Appeals and interferences in the present case on January 25, 2006. In response thereto, the Examiner reopened prosecution in an Office Action mailed April 20, 2006 in which the Examiner allowed some claims, indicated some claims contained allowable subject matter, and maintained some claims.

Appellant has also filed an appeal to the Board of Patent Appeals and Interferences, on January 23, 2006, in U.S. Patent Application No. 09/931,123 filed on August 16, 2001. U.S. Patent Application No. 09/931,123 and the application which is the subject of the instant appeal are related in that they both claim priority to the same parent application, U.S. Patent Application No. 09/504,803 filed February 16, 2000 which parent application is still currently pending.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Hawkins discloses a security trade settlement device, as in claims 1, 10, which has a computer 24 (see fig. 1, col. 4, ll. 19-24), trade execution information received by the computer database (see Abstract, col. 5, ll. 13+), said trade execution information indicative of an executed trade by a first trading party (see Abstract, col. 5, ll. 13+);

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software executing on said computer for determining block level trade execution information based upon said trade execution information (see col. 6, 11. 50 to col. 7, 11. 50),* trade order information received by said computer, said trade order information indicative of an order trade by a second trading party (see Abstract, col. 5, 11. 13+,. and col. 6, 11. 50 to col. 7, 11. 50),. software executing on said computer for determining block level trade order information indicative of an order trade by a second trading party (see col. 6, 11. 50 to col. 7, 11. 50),. software executing on said computer for determining block level trade order information based upon said trade order information , ' (see col. 6, 11. 50 to col. 7, 11. 5%), a set of predefined acceptable trade parameter risk and software executing on said computer for comparing the block level trade execution information with the block level trade execution information, and for determining that a match exists if the block level trade execution information and the block level trade order information correlate within the set of predefined acceptable trade parameters . (see- Abstract, col. 5, 11. 13+*, and col. 6, 11. 50 to col. 7, 11. 66),.

Sandhu discloses interactive servers that enable users to interactively trade and manage their portfolios (see col. 4, 11. 31+). an artisan of ordinary skill in the art at the time of the invention would have been motivated to substitute the interactive servers in Sandhu for the central database in Hawkins as an alternative communications link between the system and the users. One would also recognize the convenience of interactive servers being used for different purposes would increase the speed and efficiency of the transactions.

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On the other hand, one of ordinary skill in the art at the time of Sandhu would have sought to provide a database with a plurality of delivery instructions to comply with the requirements that may be imposed to execute a transaction. Thus such a modification would have been an obvious expedient to one of ordinary skill in the art.

(10) Response to Argument

Applicant's arguments filed September 08, 2005 have been fully considered but they are

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not persuasive. It is respectfully submitted that references, in determining obviousness are not read in isolation but for what they fairly teach. Also it is respectfully submitted that references are evaluated by what they suggest to one versed in the art, rather than their specific disclosure [see *In re Bozek*, 163 USPQ 545 (CCPA 1969)]. In this case the primary reference, Hawkins, discloses a security trade settlement device which a trade execution information received by the computer database (see Abstract, col. 5, ll. 13+), wherein said execution information indicative of an executed trade by a first trading party (see Abstract, col. 5, ll. 13+) and software executing on said computer for comparing the block level trade executing information with the block level trade execution information, and determining that a match exists if the block level trade execution information and the block level trade order information correlate within the set of predefined acceptable trade parameters (see Abstract, col. 5, ll. 13+ and col. 6, ll. 50 to col. 7, ll. 50).

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The secondary reference, Sandhu discloses interactive servers that enable users to interactively trade and manage their portfolios. The 35 USC 103(a) rejection set forth above provide reasoning for the combinations of references and resolve the level of ordinary skill in the

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Daniel S. Felten

Conferees:

Hyung Sough



Charles Kyle

